IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 1501 OF 2004

Sunil Dagadu Ambike .. Petitioner

V/s

State of Maharashtra & Ors. .. Respondents

Mr.Prakash Naik for the petitioner.

Mrs.A.S. Pai, A.P.P. for the respondents.

CORAM : H.L. GOKHALE &
SMT.V.K. TAHILRAMANI, JJ.

DATE : 23RD AUGUST 2004

P.C. :

1. Heard Mr.Naik for the petitioner. Mrs.Pai, A.P.P. for the respondents.

2. The petition is by the brother of one Rajesh who was murdered on 27th January 2003 within the jurisdiction of Deccan Gymkhana Police Station, Pune. The case of the petitioner is that from amongst the various witnesses, whose statements were recorded by the police, at least six of them were such who could be considered as

eye witnesses. They are Vividh Harishchandra Sonawane, Rajesh Kumar Kameshwar, Smt. Vasudha Madhav Karkare, Smt. Vidya Arvind Tambe, Aba Dhondiba Maral and Jayant Balwant Halbe. Mr.Naik has taken us through their statements which has been relied upon by the police. He submitted that they have given some particulars about the personalities of the assailants, namely the dress that they were wearing, their hairstyle and their complexion. Mrs.Pai, on the other hand, points out that none of them have stated that they have seen the faces of the assailants. That apart, the incident has taken place we back in January 2003 and now a request is made by the petitioner that a T.I. parade be held of these witnesses. Mrs.Pai points out that holding of this T.I. parade after such a long time would be of no use and it will be assailed on that ground as well.

3. We quite see the agony expressed by the brother of the deceased. However, in the facts of the present case, in the absence of any specific statement of having seen the faces of the assailants, the State cannot be faulted for not holding the T.I. parade. That apart, more than a year and 8 months have gone by now and it

will be rather too late in the day to hold T.I. parade. The charge-sheet is also filed and the charges are also framed.

4. The petition is dismissed.

5. We may clarify that whatever we have stated in this order is on the basis of the statements which these witnesses have given to the police. During the trial, it will be open to the prosecution as well as the advocates to make their submissions on the merits of the matter.

(H.L. GOKHALE, J.)

(SMT.V.K. TAHILRAMANI, J.)